

2.03. Judicial Notice of Law (CPLR 4511) ¹

(a) When judicial notice shall be taken without request.

Every court shall take judicial notice without request of the common law, constitutions and public statutes of the United States and of every state, territory and jurisdiction of the United States and of the official compilation of codes, rules and regulations of the state except those that relate solely to the organization or internal management of an agency of the state and of all local laws and county acts.

(b) When judicial notice may be taken without request; when it shall be taken on request.

Every court may take judicial notice without request of private acts and resolutions of the congress of the United States and of the legislature of the state; ordinances and regulations of officers, agencies or governmental subdivisions of the state or of the United States; and the laws of foreign countries or their political subdivisions. Judicial notice shall be taken of matters specified in this subdivision if a party requests it, furnishes the court sufficient information to enable it to comply with the request, and has given each adverse party notice of his intention to request it. Notice shall be given in the pleadings or prior to the presentation of any evidence at the trial, but a court may require or permit other notice.

(c) Determination by court; review as matter of law.

Whether a matter is judicially noticed or proof is taken, every matter specified in this section shall be determined by the judge or referee and included in his or her findings or charged to the jury. Such findings or charge shall be subject to review on appeal as a finding or charge on a matter of law.

(d) Evidence to be received on matter to be judicially noticed.

In considering whether a matter of law should be judicially noticed and in determining the matter of law to be judicially noticed, the court may consider any testimony, document, information or argument on the subject, whether offered by a party or discovered through its own research.

Whether or not judicial notice is taken, a printed copy of a statute or other written law or a proclamation, edict, decree or ordinance by an executive contained in a book or publication, purporting to have been published by a government or commonly admitted as evidence of the existing law in the judicial tribunals of the jurisdiction where it is in force, is prima facie evidence of that law and the unwritten or common law of a jurisdiction may be proved by witnesses or printed reports of cases of the courts of the jurisdiction.

Note

Rule 2.03 restates CPLR 4511. Its provisions are fairly self-explanatory. (See generally Vincent C. Alexander, Practice Commentaries, McKinney's Cons Laws of NY, Book 7B, CPLR 4511.)

Two Court of Appeals decisions interpreting CPLR 4511 are especially noteworthy.

In *Hamilton v Miller* (23 NY3d 592 [2014]), the Court held that, for purposes of subdivision (a)'s reference to "public statutes of the United States," a prefatory statute containing congressional fact-findings about the dangers of lead-based paint to children is not such a "public statute."

In *Edwards v Erie Coach Lines Co.* (17 NY3d 306 [2011]), the Court held that subdivision (b) permits a court to take judicial notice of foreign law notwithstanding the failure of the party seeking judicial notice to comply with

CPLR 3016's requirement that foreign law be pleaded by the party in the relevant pleading.

¹ Effective December 28, 2018, CPLR 4511 was amended by the Laws of 2018, c. 516, to add a subdivision (c) and to relabel the remaining subdivisions. This rule was then amended accordingly. The added subdivision authorized "judicial notice of an image, map, location, distance, calculation, or other information taken from a web mapping service, a global satellite imaging site, or an internet mapping tool." Thereafter, however, the Legislature decided that admissibility of those items should not be in CPLR 4511 and subdivision (c) was deleted and its contents was enacted in a separate section, CPLR 4532-b, by the Laws of 2019, c. 223, signed on August 30, 2019, although effective on the same day (December 28, 2018) as its predecessor. This rule was then again revised to delete subdivision (c) and to relabel the remaining subdivisions.